

CYRIL H. WECHT, M.D., J.D.

1119 PENN AVENUE
SUITE 404
PITTSBURGH, PENNSYLVANIA 15222
(412) 281-9090
FAX (412) 281-3650
EMAIL chwecht@fyi.net

FORENSIC PATHOLOGY
LEGAL MEDICINE

March 11, 2013

Alphonse A. Gerhardstein, Esquire
GERHARDSTEIN & BRANCH
432 Walnut Street – Suite 400
Cincinnati, Ohio 45202

Re: Rodney Brown, Deceased

Dear Mr. Gerhardstein:

Pursuant to your request, I have analyzed all the records and materials provided to me relating to the death of Mr. Rodney Brown.

CLINICAL SUMMARY

On Friday, December 31, 2010, at approximately 2043, Cleveland police officers Belal Ilain and Michael Chapman reported observing a 2001 Hyundai Elantra driven by Mr. Rodney Brown travelling without its headlights turned on. They followed the car and signaled for the driver to stop. When Officer Chapman approached the driver's side and asked Mr. Brown for his driver's license and proof of insurance, Mr. Brown asked: "Don't you know who I am?" Mr. Brown had a history of bipolar disorder.

The officers claimed Mr. Brown slammed his door after he was asked to come out. He started to walk towards Officer Chapman in "an aggressive and hostile manner". Mr. Brown complied with his fingertips on the trunk of his vehicle when told to put his hands on the trunk. The officers tried to handcuff him. Reportedly, Brown pushed off from the car, shook off Chapman and Ilain, and then moved away. Officer Chapman drew his Taser and fired it when Mr. Brown refused to get down on the ground.

One probe from Officer Chapman hit Mr. Brown in the chest. The other hit him in the abdomen. (Chapman depo 15,32; also, see autopsy photos and report). Mr. Brown then ran and Officer Ilain tased him in the back. (Ilain depo 29-30). Eventually, through this encounter Mr. Brown was tased twice in probe mode and four more times in drive stun mode (Ilain depo, 38-

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40). Officer Ilain claimed that Mr. Brown hit him with a folding knife in a nylon pouch. Officer Ilain also claimed he fought with Mr. Brown for two minutes. Officers from other zone cars arrived, and reported that Mr. Brown continued to fight them even as they put him in the backseat of their zone car.

After multiple tasings and before he was placed in the zone car, Mr. Brown stated that he could not breathe and Officer Menendez responded, "I don't give a fuck. We all can't breathe now". (Depo. Ex.22, Bates#001465). Another officer reported that Mr. Brown complained about his breathing while he was in the zone car (Merritt Depo at 14).

The investigation report (dated January 1, 2011) written by Cleveland Division of Police Det. Timothy Entenok and Det. Thomas Armelli indicated that Mr. Brown resisted arrest and struggled with Officers Ilain and Chapman. They used their Tasers to "drive stun" him, but that had no effect. Mr. Brown hit Officer Ilain on his head with the folding knife. The officer grabbed it and threw it into another yard.

Mr. Brown continued to violently resist arrest even when the other zone cars arrived at the scene. He went limp and was carried to the Zone car. He "refused to enter the backseat and had to be pulled and slid into the backseat". Officers Heard Mr. Brown call for his "mommy" while he was in the zone car. (Blaine Ex. 32). EMS unit 16 arrived on the scene when Mr. Brown was in full arrest. Taken to University Hospital, Mr. Brown was pronounced dead at 2141. (The autopsy protocol summary noted death at 10:25 p.m.)

Cuyahoga County, Ohio coroner Frank Miller, III, M.D., certified the autopsy findings on Rodney Stanton Brown, Sr. by Jimmie K. Smith, M.D.

Mr. Brown was a well developed, well nourished 40 year old black male with a height of 76 inches and weight of 209 pounds.

The anatomic diagnoses listed:

- I. Cardiopulmonary arrest following physical exertion during law enforcement activity
- II. Hypertensive cardiovascular disease
 - A. Cardiomegaly, 540 grams with left ventricular hypertrophy (LVW=1.8cm, RVW=0.5 cm)
 - B. Intramyocardial arteriosclerosis
 - C. Dilatation of right ventricle
 - D. Nephrosclerosis
- III. Chronic obstructive pulmonary disease
 - A. Right lung, 1110 grams

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- B. Left lung, 910 grams
- C. Subpleural bullae in both lungs
- D. Severe emphysematous changes throughout lungs
- D. Chronic perivascular and peribronchiolar inflammation

- IV. Clinical history of paranoid schizophrenia
- V. Clinical history of bipolar disorder
- VI. Blunt impacts to head, trunk and extremities
 - A. Multiple abrasions of head, trunk, and extremities (right forehead, left temple, right cheek, abrasions left forearm, left palm, left fifth finger, right knee and left knee
 - B. Contusions of head and chest (anterior left chest, left lower chest and upper abdomen, left anterolateral chest abrasions)
 - C. Two lacerations of inner lips (laceration labial lower lip, left labial upper lip, abrasion outer surface of upper lip)
 - D. Hemorrhage in bilateral temporalis muscles

- VII. History of strikes by Taser electronic control device and application in drive stun mode
 - A. Small puncture wound (6), anterior trunk (5 : anterior left thorax 1 inch left of midline, 1: anterior right thorax)
 - B. Small puncture wound (5), left (lower) back

- VIII. Benign liver hemangioma

- IX. Therapeutic intervention
 - A. Endotracheal tube
 - B. Status post pericardiocentesis
 - C. Intravenous access lines
 - D. Patient identification bracelet

Cause of death: cardiopulmonary arrest following physical exertion during law enforcement activity.

HOMICIDE

Other conditions: Hypertensive cardiovascular disease
Chronic obstructive pulmonary disease
Paranoid schizophrenia
Bipolar disorder

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Additional Deposition Notes:

Officer Michael Chapman 6-12-12 (137 pages)

During training, he had volunteered to be tased. It was very painful. During this incident, he and his partner were in an area where they heard a gunshot after having just finished a previous assignment. The victim's car came towards them, and it did not have its lights on.

Officer Belal Ilain 6-12-12 (89 pages)

He ran the plate of the car that did not have its lights on. They initiated the traffic stop. Their suspect hit him on the head with a folding knife in a cloth bag. He was able to get it from Mr. Brown and threw it away into a neighboring yard.

Officer Kevin Kincaid 6-13-12 (42 pages)

He was the driver of the police car that responded to the call for assistance by Officer Ilain. His only contact with Mr. Brown was when he escorted him into the zone car. He grabbed his shoulder and pulled him into the car. Mr. Brown was grunting.

Officer David Skrletts 6-13-12 (46 pages)

At the scene he saw a number of officers struggling to take a male into custody. The man was kicking. He grabbed his legs by the ankles. Another officer may have assisted him. He saw the officers place Mr. Brown, handcuffed and lying on his side and facing toward the rear into the car.

Officer Pedro Vargas 6-13-12 (61 pages)

He saw Mr. Brown lying down struggling and fighting with Officers Chapman and Ilain. He pulled his Taser, but stopped when told that Mr. Brown did not respond to the Tasers. He and his partner, Officer Melendez, were the first to get there. Officer Blaine arrived shortly thereafter and assisted in handcuffing Mr. Brown who was on his stomach. Officers Chapman and Ilain "jumped off – they were tired".

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Officer Erik Melendez 6-13-12 (53 pages)

Officers were attempting to handcuff Mr. Brown when they arrived at the scene. He was on his stomach as each officer was positioned on each side attempting to pull his arms behind him to handcuff him. Mr. Brown was actively resisting arrest. He assisted handcuffing Mr. Brown while kneeling near his head area. After standing him up, Officer Melendez attempted to search for additional weapons. He disengaged and other officers took hold of Mr. Brown. He and his partner left for another assignment.

Sergio M. Fletcher 8-20-12 Cleveland EMS, Division of Safety (44 pages)

They got a call that a male had been tased and had been assigned a "bravo" (alpha to echo, alpha having lowest priority). A person might need some intervention, might have to be put on the cot, but not an acute situation. When they got to the scene, the victim was sitting-like leaning against the officer's legs. When they tried to lift him up, Mr. Brown was not responding. They started advance life support. Entered time was 9:01:06.

Anthony McGhaw 8-28-12 Cleveland EMS (34 pages)

When they arrived at the scene, Mr. Brown was sitting on his buttocks with his back against an officer's legs. He had a glazed look on his face. They lifted him and put him on the cot. He seemed not to move at all. He remembers seeing a barb on Mr. Brown's clothing. Mr. Brown was dead before they got to the hospital (Depo 21)

Officer James Merritt 8-29-12 (36 pages)

Several officers were fighting with Mr. Brown in a driveway. They were struggling in the grass and the driveway. Mr. Brown was kicking, punching and refusing to put his hands behind his back. He was very angry and physically resisted getting into Officer Merritt and his partner's zone car. Mr. Brown was secured in their zone car. After a lot of screaming, Mr. Brown said he was having trouble breathing. Officer Merritt rolled down the back windows. His partner called for EMS.

Officer Richard Rusnak 8-29-12 (63 pages)

He and his partner, Officer Merritt, were the first ones on the scene. Having been told that Mr. Brown had been tased, he immediately called for a supervisor and EMS. Mr. Brown was

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on the ground on his stomach with both arms underneath him and Officers Chapman and Ilain on top of him. Mr. Brown was on the grass when Officer Rusnak went on top of him - around Mr. Brown's mid back area. They tried to get Mr. Brown's arm out. He refused to get in the car once subdued. He went limp. Instead of dropping him, they set him back down to the ground. Officers Melendez and Blaine grabbed him and took him back the rest of the distance to the car.

Officers Rusnak and Merritt took Mr. Brown out of the zone car for EMS to look at him. They placed him on the knees on the tree lawn. EMS arrived in perhaps less than one minute. Two officers and two ambulance people placed him on the gurney.

Sgt. John Sattler 8-29-12 (29 pages)

Sgt Sattler was supervisor of one of two sectors in the area. He was told that while trying to effect a traffic stop, the male took off running. A small foot chase followed. When he arrived at the scene, he saw the handcuffed Mr. Brown in the rear, slumped over on his side and not responsive. The officers removed him from the vehicle and sat him on the curb. The EMS arrived shortly.

Mark Barrett 8-30-12 (30 pages)

He was one of the EMS responders who noted Mr. Brown leaning against a police officer's leg.

Officer Mark Blaine 8-30-12 (29 pages)

He was with partner Officer Pendleton in responding to the assist Officers Chapman and Ilain.

It was ruled a homicide by the Coroner's office.

Reviewed are 40 autopsy photographs, 22 of the victim's clothing and shoes, 5 of deployed Taser, and 26 of the Taser weapon. Submitted for review were, 17 slides labeled

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Cuyahoga County Medical Examiner IN2011-0001 Rodney Stanton Brown, Sr. Recut. Four sections of the heart, 5 of brain and two of liver confirm the gross findings.

Severe emphysematous and inflamed lungs with parenchymal hemorrhages
Focal hemorrhage in the liver
Marked congestion in brain sections.

MEDICOLEGAL QUESTIONS

1. What was the exact cause of Mr. Brown's death?

Cardiac arrhythmia in an enlarged heart that developed as a result of extreme stress during the time of Mr. Brown's struggle was the immediate cause of his death

2. What role, if any, did the taser deployment to his chest play in his death?

The tasing to the chest on his heart contributed significantly to the underlying impairment of the heart (cardiomegaly and hypertensive left ventricular hypertrophy secondary to nephrosclerosis).

Emotional disorder associated with his pre-existing condition of bipolar disorder would also have contributed to the onset of the cardiac arrhythmia.

3. What role, if any did the subsequent deployments to Mr. Brown play in his death?

There is evidence of further trauma to Mr. Brown's body, including additional taser deployments, that would have contributed to the onset of his cardiac dysrhythmia and respiratory failure.

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4. Did the initial and/or subsequent taser deployments and other physical conduct by the officers, contribute to the respiratory distress suffered by Mr. Brown?

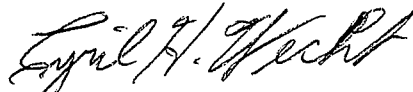
As discussed above, the extensive physical altercation that Mr. Brown experienced with multiple police officers during his arrest contributed to the terminal cardiorespiratory pathophysiological processes, and resulting in his ultimate death

OPINION

Following the review and analysis of voluminous submitted materials, based upon a reasonable degree of medical certainty, it is my professional opinion that Mr. Rodney Brown died as a result of the direct effects of tasering on an enlarged hypertensive heart.

The strenuous physical struggle contributed to the increased physiological demands upon the heart of this emotionally disturbed individual, leading to a fatal arrhythmia.

Very truly yours,

A handwritten signature in black ink, appearing to read "Cyril H. Wecht". The signature is fluid and cursive, with the first name "Cyril" being more prominent.

Cyril H. Wecht, M.D., J.D.

CHW/srw

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Re: Rodney Brown, Deceased

PROFESSIONAL CONSULTATION BILL

Medical-Legal Consultation

Telephone Conferences with Attorney
Gerhardstein;

Additional Materials from Cuyahoga County
Forensic Science Laboratory;

Autopsy Photographs on CD from Cuyahoga
County Medical Examiner's Office;

Supplemental Research of Medical and Forensic
Scientific Literature;

4 hrs @ \$500

TOTAL:

\$ 2,000.00*

THANK YOU

*Payment to: Cyril H. Wecht and Pathology Associates, Inc., 1119 Penn Avenue, Suite 404,
Pittsburgh, Pennsylvania 15222, USA